

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

AR.No. 60 of 2006()

PETITIONER:

SOFT GUIDE TECHNOLOGIES PVT.LTD.,
6/1183 KUNHIPARI BUILDINGS, CHEROOTY ROAD,
CALICUT-673 032, REPRESENTED BY ITS MANAGING
DIRECTOR, T.P.ABDULLA, S/O.P.P.HASSAN,
AGED 54 YEARS.

BY ADV. SRI.S.ANANTHAKRISHNAN
SRI.SHYAM PADMAN
SRI.N.K.SUBRAMANIAN

RESPONDENT:

KEEZHARIYOOR SERVICE CO-OPERATIVE
BANK LIMITED, F 772, KEEZHARIYOOR P.O.,
CALICUT, REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.R.PARTHASARATHY

THIS ARBITRATION REQUEST HAVING BEEN FINALLY HEARD
ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.S.RADHAKRISHNAN, Ag.C.J.

A.R. No. 60 of 2006

Dated this the 14th day of March, 2007.

ORDER

This Arbitration Request has been preferred by the applicant for appointing a sole Arbitrator to resolve the dispute between the parties. Learned counsel appearing for the applicant referred to Annexure-A1 agreement and the arbitration clause contained therein. It is submitted that even though a claim was raised, that was not accepted and hence the dispute arising in the matter has to be referred to the Arbitrator as per the arbitration clause contained in Annexure-A1. The applicant suggested the names of Sri.K.P.Narayanan Nair and Sri.M.Unnikrishnan, retired District Judges. Learned counsel appearing for the respondent submitted that the dispute, if any, with a co-operative Bank shall not be referred to a sole Arbitrator, but shall be referred to the Co-operative Tribunal under Section 69 of the Kerala Co-operative Societies Act. With regard to the names suggested by the applicant, counsel for the respondent submits that even if a sole Arbitrator is to be appointed, his suggestion is that Mr.Natarajan, a retired District Judge be appointed as the Arbitrator. There is an arbitration clause contained in Annexure-A1, which is extracted below:

“All disputes, difference, claims and demands arising under or pursuant to or touching this shall refer

to Arbitration of a sole arbitrator to be appointed by the parties. Such shall be held in Kozhikode and shall subject to and governed by the provision of the Arbitration Act, 1940, or Kerala Co-operative Societies Act or any statutory modification or re-enactment thereof for the time being in force.”

2. The abovementioned clause would show that the parties have agreed that all disputes, difference, claims and demands shall be referred to a sole Arbitrator to be appointed by the parties. Arbitrator has to be appointed by the parties and not to refer the matter to the statutory authority/Tribunal under the Kerala Co-operative Societies Act.

3. In such circumstances I am of the view that the request of the applicant for appointment of an Arbitrator is justified. Since there is difference of opinion between the parties with regard to the person to be appointed as Arbitrator, I am inclined to appoint Sri.M.Unnikrishnan, retired District Judge, Shree Nilayam, Chalappuram, Calicut as the Arbitrator for resolving the dispute between the parties. Communicate the order to the Arbitrator.

Arbitration Request is disposed of accordingly.

**K.S.RADHAKRISHNAN,
Ag. Chief Justice.**

vns.

